

REMARKS

This amendment responds to the Office Action mailed April 21, 2004.

Applicants thank the Examiner for recognizing patentable subject matter in claims 13, 15 and 17. At this stage, applicants believe that additional claims will be found to be allowable in light of the following remarks.

In paragraph 1 of the Office Action, the Office Action alleges that the previous response filed on February 9, 2004 ("the February response") was not fully responsive to the prior Office Action. Specifically, the Office Action states a preference for labeling the boxes in Figures 1— 4 with descriptive text rather than reference numerals.

Applicants do not believe the use of reference numerals in the figures is improper since they have been fully described in the specification. However, if the Office Action insists, applicants will amend the drawings by using labels instead of numerals. However, such a correction to the drawings is not intended to preclude future claims from including elements that are no longer identified by reference numerals.

In paragraph 2 of the Office Action, the Office Action finds the arguments in the February response as not being persuasive. The Office Action identifies, in Everett's Figure 1, the energy receive coil 34 as the power supply and the storage capacitor 44 as the transmitter capacitor. Applicants did not address this interpretation of 'power supply means' in their previous response since passive tags are ordinarily understood to lack a power supply. Everett itself identifies the DC powering circuit 24 in Figure 1 as a power supply but does not even suggest that the energy receive coil is a power supply as alleged by the Office Action.

However, even if this suggested interpretation of Everett is adopted it is not self consistent. For instance, under the suggested interpretation Everett lacks, the 'control means,' of claim 7, for "selectively connecting said charge pump means to a transmitter capacitor." Everett also does not teach, disclose or suggest any "selective" connections and instead expressly states that in "accordance with the present invention, a portable tag includes a reception circuit that has a storage capacitor electrically coupled to the conductive receiving coil of the tag." See, Everett col. 4, lines 12-16. Indeed, Everett does not have any teaching, disclosure or suggestion for disconnecting the voltage doubler (charge pump) from the storage capacitor (transmitter capacitor), e.g., by the use of a switch. Therefore, under the new interpretation of Everett proposed by the Office Action Everett lacks the 'control means' of claim 7.

In another aspect, the Office Action alleges the presence of the required motivation to combine Ahlm and Everett since one of ordinary skill in the art would “recognize that by adding a charge pump means between the power supply and transmitter capacitor C of Ahlm’s label as taught by Everett would decrease the label’s power consumption of the solar cell while powering the transmitter in a highly efficient manner.” It is not clear how the proposed combination reduces the power consumption of the label. Be that as may, there are other reasons that require allowance of the pending claims.

The arguments forwarded by the Office Action continue to be insufficient to make a *prima facie* case for rejecting claim 7 because they appear to mix two rather different interpretations of Everett only based on hindsight rather than the actual disclosure of Everett. Everett, when read as suggested by the Office Action, alone or in combination with Ahlm, does not disclose or suggest all of the limitations of claim 7, e.g., the limitation: “control means for selectively connecting said charge pump means to a transmitter capacitor, whereby said transmitter capacitor is connectable to said transmitter means in order to supply said transmitter means with power at a voltage which is greater than the voltage of said power supply.” As discussed this limitation is missing from Everett and the cited portions of Ahlm. Absent this limitation, the suggested combination fails to provide all of the limitations of the claimed invention as is required for making a *prima facie* case for rejecting the claimed invention. Therefore, the alleged motivation is either (i) for a system and method different from the claimed invention or (ii) is nothing more than impermissible hindsight based only on the disclosure of the above-captioned application.

In paragraph 5 of the Office Action, the Office Action maintains the rejection of claims 7—12, 14, 16 and 17 pursuant to 35 U.S.C. § 103(a) over Ahlm in view of Everett. Since Ahlm is also not identified as teaching the limitation plainly missing from Everett, the Office Action has failed to make a *prima facie* case for rejecting claim 7 and claims dependent upon it.

Ahlm teaches, for instance, a label that either responds to a message by acknowledging that it is directed to it or by operating as a repeater to forward an acknowledge message of another label. This scheme, *inter alia*, reduces the distance, and hence the power requirements, over which acknowledge signals must be transmitted by a particular label. Further, the power available to many labels is then available to assist in transmission of the acknowledge signal all the way to the central system computer in contrast to the need to provide each label with a power source capable of directly transmitting a signal

to the central system computer. Ahlm further discloses that the power source for the label could be a solar cell.

The Office Action concedes that Ahlm does not disclose the charge pump connected to the capacitor battery C for supplying power to capacitor battery C. However, it proposes that the charge pump of Everett would be used by one or ordinary skill in the art in the system of Ahlm. Claim 7 clarifies that power is supplied “after a signal intended for [the] label has been received by [the label’s] receiver means” Under the combination proposed by the Office Action, it is not clear which capacitor of Ahlm is identified by the Office Action as being the transmit capacitor in a tag of Ahlm such that it is powered in response to a signal “intended for it.” Since, Everett’s passive tag allegedly receives power from a signal “intended for it,” the modified tag of Ahlm presumably requires further unspecified changes to meet all of the limitation of the claimed invention –changes that are necessarily based on nothing more than pure hindsight. Therefore, the rejection of all of the claims should be withdrawn.

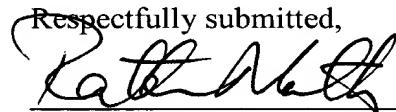
CONCLUSION

No new matter has been added and this response is directed to only placing the application in order for issuance. With respect to claim 8-17, Applicant notes that these claims are ultimately dependent on allowable claim 7 and are axiomatically allowable as well.

Although, this Office Action has made the rejection final, applicants respectfully request that it be treated as a first rejection since the interpretation of Everett adopted in the paragraph 2 of the Office Action is both new and provided for the first time only due to the insufficiency of the prior interpretation. These new grounds cannot be fairly said to be necessitated by the prior response of the applicants since they should have been presented in the first instance to allow a complete response to be made. As noted earlier in the response the new reading of Everett is not suggested by Everett itself. Therefore, applicants respectfully request that the finality of the rejections be withdrawn.

In light of the above remarks, the Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance without delay.

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Respectfully submitted,


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